

Remarks

Applicant appreciates the Examiner's withdrawal of the previous § 102(e) rejection of claims 1-15 and, per today's conversion with the Examiner, the withdrawal (with a replacement non-final Office Action being issued) of the rejection presented in the instant Office Action in view of the following arguments. The non-final Office Action dated December 24, 2008 lists the following new grounds of rejection: claims 1-15 stand rejected under 35 U.S.C. § 102(a) over TransDimension (TransDimension OTG243 Product Brief). In the discussion set forth below, Applicant does not acquiesce to any rejection or averment in the instant Office Action unless Applicant expressly indicates otherwise.

Applicant respectfully traverses the § 102(a) rejection of claims 1-15 because the Office Action has not presented any evidence that the TransDimension reference qualifies as prior art under § 102(a). Specifically, there is no evidence which indicates that the TransDimension reference was accessible to the public as of the date printed on the reference (*i.e.*, March 25, 2002), or that the TransDimension reference was accessible to the public before Applicant's priority date of September 24, 2002. *See, e.g.*, M.P.E.P. § 2128. In fact, the TransDimension reference is marked "preliminary" and "proprietary" which indicates that the reference was not accessible to the public as of March 25, 2002. *See, e.g.*, M.P.E.P. § 2128.01(III). As such, the only evidence of record indicates that the TransDimension reference does not qualify as prior art under § 102(a). Accordingly, the § 102(a) rejection of claims 1-15 is improper and Applicant requests that it be withdrawn.

Regarding the Office Action's request to add headings to the specification, Applicant has previously declined to add such headings because the indicated suggestions in 37 C.F.R. § 1.77(b) are not statutorily required for filing a non-provisional patent application under 35 USC § 111(a), but per 37 C.F.R. § 1.51(d) are only guidelines that are suggested for applicant's use.

Should there be § 102-type assertions related to the above-referenced "proprietary" document, Applicant would of course review and respond based on the merits of any alleged correspondence and/or the qualification of the document as prior art under the patent statutes. For example, should the Examiner assert that a specific version of the OTG243 product was on sale within a year of Applicant's priority date (September

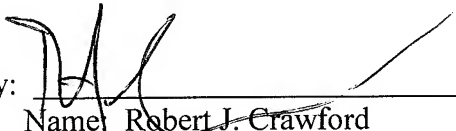
24, 2002), Applicant would review and consider any alleged correspondence to that specific version of the OTG243 product and/or the qualification of that specific version of the OTG243 product as prior art under the patent statutes.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063 (or the undersigned).

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